IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Crl.MC.No. 3035 of 2007()

ST.19/2005 of JUDL.MAGISTRATE OF FIRST CLASS-I, KANJIRAPPALLY

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PETITIONER: ACCUSED:

P.M. VARKEY, AGED 55 YEARS,
S/O. MANI, CHIRAYIL VEEDU, KARIPPUTHATTU,
AROPOOKARA POST, KOTTAYAM-8.

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS: COMPLAINANT & STATE:

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1. MALANADU DEVELOPMENT SOCIETY,
REG. NO.K.201/77, PARATHODE P.O., REPRESENTED BY
ITS POWER OF ATTORNEY AGENT, M.A.ANTOCHAN,
AGED ABOUT 40 YEARS, S/O. ANTONY, MUNDAM MACKEL
VEEDU, MANALUNGAL POST, ANIKKADU, KOTTAYAM DIST.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 3035 Of 2007

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Dated this the 4th day of October, 2007

ORDER

Petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instrument Act Cognizance has already been taken. The petitioner has appeared before the learned Magistrate. The petitioner has now come to this Court with a prayer to quash the proceedings against the petitioner invoking powers under Sec.482 Cr.P.C.

2. What is the reason? The learned counsel for the petitioner submits that the proceedings are liable to be quashed for the reason that there is no proper notice of demand. There was a notice of demand; but the notice, it is contended, is sent in an incorrect address. In the complaint also that incorrect address was earlier shown. But subsequently summons has been ordered to be issued in the correct address. In these circumstances, the petitioner wants this Court to quash the proceedings invoking powers under Sec.482 Cr.P.C.

3. The alleged defect in the notice is certainly a ground to be raised in the trial before the learned Magistrate. In proceedings under Section 482 Cr.P.C., this Court cannot aspire to resolve such controversial facts. Which is the correct address of the petitioner at

the relevant time? That is certainly a question which can be decided only in the course of trial on the basis of the evidence adduced.

4. I am, in these circumstances, satisfied that there is no merit in the prayer to quash the proceedings, by invoking the powers under Sec.482 Cr.P.C The petitioner can certainly raise such contention – regarding the impropriety and inadequacy of the notice, in the course of the trial before the learned Magistrate. This petition is hence dismissed with the above observations.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE